



Sen. M. Maggie Crotty

Filed: 5/10/2011

09700HB1973sam001

LRB097 09421 CEL 55173 a

1 AMENDMENT TO HOUSE BILL 1973

2 AMENDMENT NO. _____. Amend House Bill 1973 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Optometric Practice Act of 1987 is
5 amended by changing Section 24.2 as follows:

6 (225 ILCS 80/24.2)

7 (Section scheduled to be repealed on January 1, 2017)

8 Sec. 24.2. Prohibition against fee splitting.

9 (a) A licensee under this Act may not directly or
10 indirectly divide, share or split any professional fee or other
11 form of compensation for professional services with anyone in
12 exchange for a referral or otherwise, other than as provided in
13 this Section 24.2.

14 (b) Nothing contained in this Section abrogates the right
15 of 2 or more licensed health care workers as defined in the
16 Health Care Worker Self-referral Act to each receive adequate

1 compensation for concurrently rendering services to a patient
2 and to divide the fee for such service, whether or not the
3 worker is employed, provided that the patient has full
4 knowledge of the division and the division is made in
5 proportion to the actual services personally performed and
6 responsibility assumed by each licensee consistent with his or
7 her license, except as prohibited by law.

8 (c) Nothing contained in this Section prohibits a licensee
9 under this Act from practicing optometry through or within any
10 form of legal entity authorized to conduct business in this
11 State or from pooling, sharing, dividing, or apportioning the
12 professional fees and other revenues in accordance with the
13 agreements and policies of the entity provided:

14 (1) each owner of the entity is licensed under this
15 Act;

16 (2) the entity is organized under the Professional
17 Services Corporation Act or ~~the Professional Association~~
18 ~~Act, or the Limited Liability Company Act;~~

19 (3) the entity is (i) ~~allowed by Illinois law to~~
20 ~~provide optometric services or employ optometrists such as~~
21 a licensed hospital or hospital affiliate or (ii) a
22 licensed ambulatory surgical treatment center owned in
23 full or in part by Illinois-licensed physicians or
24 optometrists ~~in accordance with Section 8 of this Act;~~ or

25 (4) the entity is a combination or joint venture of the
26 entities authorized under this subsection (c).

1 (d) Nothing contained in this Section prohibits a licensee
2 under this Act from paying a fair market value fee to any
3 person or entity whose purpose is to perform billing,
4 administrative preparation, or collection services based upon
5 a percentage of professional service fees billed or collected,
6 a flat fee, or any other arrangement that directly or
7 indirectly divides professional fees, for the administrative
8 preparation of the licensee's claims or the collection of the
9 licensee's charges for professional services, provided that:

10 (i) the licensee or the licensee's practice under
11 subsection (c) at all times controls the amount of fees
12 charged and collected; and

13 (ii) all charges collected are paid directly to the
14 licensee or the licensee's practice or are deposited
15 directly into an account in the name of and under the sole
16 control of the licensee or the licensee's practice or
17 deposited into a "Trust Account" by a licensed collection
18 agency in accordance with the requirements of Section 8(c)
19 of the Illinois Collection Agency Act.

20 (e) Nothing contained in this Section prohibits the
21 granting of a security interest in the accounts receivable or
22 fees of a licensee under this Act or the licensee's practice
23 for bona fide advances made to the licensee or licensee's
24 practice provided the licensee retains control and
25 responsibility for the collection of the accounts receivable
26 and fees.

1 (f) Excluding payments that may be made to the owners of or
2 licensees in the licensee's practice under subsection (c), a
3 licensee under this Act may not divide, share or split a
4 professional service fee with, or otherwise directly or
5 indirectly pay a percentage of the licensee's professional
6 service fees, revenues or profits to anyone for: (i) the
7 marketing or management of the licensee's practice, (ii)
8 including the licensee or the licensee's practice on any
9 preferred provider list, (iii) allowing the licensee to
10 participate in any network of health care providers, (iv)
11 negotiating fees, charges or terms of service or payment on
12 behalf of the licensee, or (v) including the licensee in a
13 program whereby patients or beneficiaries are provided an
14 incentive to use the services of the licensee.

15 (g) Nothing contained in this Section prohibits the payment
16 of rent or other remunerations paid to an individual,
17 partnership, or corporation by a licensee for the lease,
18 rental, or use of space, owned or controlled by the individual,
19 partnership, corporation, or association.

20 (h) Nothing contained in this Section prohibits the
21 payment, at no more than fair market value, to an individual,
22 partnership, or corporation by a licensee for the use of staff,
23 administrative services, franchise agreements, marketing
24 required by franchise agreements, or equipment owned or
25 controlled by the individual, partnership, or corporation, or
26 the receipt thereof by a licensee.

1 (Source: P.A. 96-608, eff. 8-24-09.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".